

AMENDED IN SENATE APRIL 28, 2011

AMENDED IN SENATE MARCH 23, 2011

SENATE BILL

No. 757

Introduced by Senator Lieu

February 18, 2011

An act to ~~amend Section 1374.58 of, and to add Section 1367.003 to, add Section 1367.30 to the Health and Safety Code, and to amend Sections 381.5 and 10121.7 of, and to add Section 49 to, Section 10112.5 of the Insurance Code, relating to discrimination.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 757, as amended, Lieu. Discrimination.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans and makes a willful violation of its provisions a crime. Existing law also provides for the regulation of health insurers and all other forms of insurance by the Department of Insurance. Existing law requires a health care service plan and a health insurer to provide *group* coverage to the registered domestic partner of an employee, subscriber, insured, or policyholder that is equal to the coverage it provides to the spouse of those persons. ~~Existing law extends that requirement to all other forms of insurance regulated by the Department of Insurance and provides that all of those policies are deemed to require coverage for registered domestic partners that is equal to the coverage provided to a spouse.~~

Existing law provides that a policy or certificate of health insurance marketed, issued, or delivered to a California resident, regardless of the situs of the contract or master group policyholder, is generally subject to California insurance law, except for a policy issued outside

of California to an employer whose principal place of business and majority of employees are located outside of California.

~~This bill would provide that any every group health care service plan contract, and every group health insurance policy, or any other insurance policy that is issued to or intended to cover any person residing in this state shall be deemed to provide coverage for registered domestic partners that is equal to the coverage provided to a spouse. The bill would require that every health care service plan contract, health insurance policy, or any other insurance policy that is issued to or intended to cover any person residing in this state shall comply with all nondiscrimination requirements set forth in state law marketed, issued, or delivered to a California resident is subject to the requirements to provide equal coverage to domestic partners as is provided to spouses, notwithstanding any other provision of law.~~

Because a willful violation of these provisions by a health care service plan would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1367.30 is added to the Health and Safety
2 Code, to read:

3 1367.30. Notwithstanding any other provision of law, every
4 group health care service plan contract marketed, issued, or
5 delivered to a resident of this state, regardless of the situs of the
6 contract or the subscriber, shall be subject to Section 1374.58.

7 SEC. 2. Section 10112.5 of the Insurance Code is amended to
8 read:

9 10112.5. (a) (1) Notwithstanding any other provision of law,
10 every policy or certificate of ~~disability~~ health insurance covering
11 ~~hospital, medical, or surgical expenses~~ marketed, issued, or
12 delivered to a resident of this state, regardless of the situs of the

1 contract or master group policyholder, shall be subject to all
2 provisions of this code.

3 ~~(b) Subdivision (a)~~

4 ~~(2) Paragraph (1) shall not apply to a policy or certificate of~~
5 ~~disability health insurance that covers hospital, medical, or surgical~~
6 ~~expenses and that is issued outside of California to an employer~~
7 ~~whose principle principal place of business and majority of~~
8 ~~employees are located outside of California.~~

9 ~~(e)~~

10 ~~(3) Nothing in subdivision (b) paragraph (2) shall be construed~~
11 ~~to limit the applicability of any other provision of this code to any~~
12 ~~policy or certificate of disability health insurance that covers~~
13 ~~hospital, medical, or surgical expenses and that is issued outside~~
14 ~~of California to an employer whose principle principal place of~~
15 ~~business and majority of employees are located outside of~~
16 ~~California.~~

17 ~~(b) Notwithstanding any other provision of law, every policy or~~
18 ~~certificate of group health insurance marketed, issued, or delivered~~
19 ~~to a resident of this state, regardless of the situs of the contract or~~
20 ~~master group policyholder, shall be subject to Section 10121.7.~~

21 ~~SECTION 1. Section 1367.003 is added to the Health and~~
22 ~~Safety Code, to read:~~

23 ~~1367.003. Every health care service plan contract and~~
24 ~~specialized health care service plan contract that is issued to or~~
25 ~~intended to cover any person residing in this state shall comply~~
26 ~~with all nondiscrimination requirements set forth in this code.~~

27 ~~SEC. 2. Section 1374.58 of the Health and Safety Code is~~
28 ~~amended to read:~~

29 ~~1374.58. (a) A group health care service plan that provides~~
30 ~~hospital, medical, or surgical expense benefits shall provide equal~~
31 ~~coverage to employers or guaranteed associations, as defined in~~
32 ~~Section 1357, for the registered domestic partner of an employee~~
33 ~~or subscriber to the same extent, and subject to the same terms and~~
34 ~~conditions, as provided to a spouse of the employee or subscriber,~~
35 ~~and shall inform employers and guaranteed associations of this~~
36 ~~coverage. A plan may not offer or provide coverage for a registered~~
37 ~~domestic partner that is not equal to the coverage provided to the~~
38 ~~spouse of an employee or subscriber.~~

39 ~~(b) If an employer or guaranteed association has purchased~~
40 ~~coverage for spouses and registered domestic partners pursuant to~~

1 subdivision (a), a health care service plan that provides hospital,
2 medical, or surgical expense benefits for employees or subscribers
3 and their spouses shall enroll, upon application by the employer
4 or group administrator, a registered domestic partner of an
5 employee or subscriber in accordance with the terms and conditions
6 of the group contract that apply generally to all spouses under the
7 plan, including coordination of benefits.

8 (c) For purposes of this section, the term “domestic partner”
9 shall have the same meaning as that term is used in Section 297
10 of the Family Code.

11 (d) (1) A health care service plan may require that the employee
12 or subscriber verify the status of the domestic partnership by
13 providing to the plan a copy of a valid Declaration of Domestic
14 Partnership filed with the Secretary of State pursuant to Section
15 298 of the Family Code or an equivalent document issued by a
16 local agency of this state, another state, or a local agency of another
17 state under which the partnership was created. The plan may also
18 require that the employee or subscriber notify the plan upon the
19 termination of the domestic partnership.

20 (2) Notwithstanding paragraph (1), a health care service plan
21 may require the information described in that paragraph only if it
22 also requests from the employee or subscriber whose spouse is
23 provided coverage, verification of marital status and notification
24 of dissolution of the marriage.

25 (e) Nothing in this section shall be construed to expand the
26 requirements of Section 4980B of Title 26 of the United States
27 Code, Section 1161, and following, of Title 29 of the United States
28 Code, or Section 300bb-1, and following, of Title 42 of the United
29 States Code, as added by the Consolidated Omnibus Budget
30 Reconciliation Act of 1985 (Public Law 99-272), and as those
31 provisions may be later amended.

32 (f) A plan contract subject to this section that is issued, amended,
33 delivered, or renewed in this state on or after January 2, 2005, and
34 any plan contract that is issued to or intended to cover any person
35 residing in this state, shall be deemed to provide coverage for
36 registered domestic partners that is equal to the coverage provided
37 to a spouse of an employee or subscriber.

38 SEC. 3. Section 49 is added to the Insurance Code, to read:

1 ~~49. Every insurance policy that is issued to or intended to cover~~
2 ~~any person residing in this state shall comply with all~~
3 ~~nondiscrimination requirements set forth in this code.~~

4 ~~SEC. 4. Section 381.5 of the Insurance Code is amended to~~
5 ~~read:~~

6 ~~381.5. (a) Every policy issued, amended, delivered, or renewed~~
7 ~~in this state shall provide coverage for the registered domestic~~
8 ~~partner of an insured or policyholder that is equal to, and subject~~
9 ~~to the same terms and conditions as, the coverage provided to a~~
10 ~~spouse of an insured or policyholder. A policy may not offer or~~
11 ~~provide coverage for a registered domestic partner if it is not equal~~
12 ~~to the coverage provided for the spouse of an insured or~~
13 ~~policyholder. This subdivision applies to all forms of insurance~~
14 ~~regulated by this code.~~

15 ~~(b) A policy subject to this section that is issued, amended,~~
16 ~~delivered, or renewed in this state on or after January 1, 2005, and~~
17 ~~any policy that is issued to or intended to cover any person residing~~
18 ~~in this state, shall be deemed to provide coverage for registered~~
19 ~~domestic partners that is equal to the coverage provided to a spouse~~
20 ~~of an insured or policyholder.~~

21 ~~(c) It is the intent of the Legislature that, for purposes of this~~
22 ~~section, “terms,” “conditions,” and “coverage” do not include~~
23 ~~instances of differential treatment of domestic partners and spouses~~
24 ~~under federal law.~~

25 ~~SEC. 5. Section 10121.7 of the Insurance Code is amended to~~
26 ~~read:~~

27 ~~10121.7. (a) A policy of group health insurance that provides~~
28 ~~hospital, medical, or surgical expense benefits shall provide equal~~
29 ~~coverage to employers or guaranteed associations, as defined in~~
30 ~~Section 10700, for the registered domestic partner of an employee,~~
31 ~~insured, or policyholder to the same extent, and subject to the same~~
32 ~~terms and conditions, as provided to a spouse of the employee,~~
33 ~~insured, or policyholder, and shall inform employers and~~
34 ~~guaranteed associations of this coverage. A policy may not offer~~
35 ~~or provide coverage for a registered domestic partner that is not~~
36 ~~equal to the coverage provided to the spouse of an employee,~~
37 ~~insured, or policyholder.~~

38 ~~(b) If an employer or guaranteed association has purchased~~
39 ~~coverage for spouses and registered domestic partners pursuant to~~
40 ~~subdivision (a), a health insurer that provides hospital, medical,~~

1 or surgical expense benefits for employees, insureds, or
2 policyholders and their spouses shall enroll, upon application by
3 the employer or group administrator, a registered domestic partner
4 of the employee, insured, or policyholder in accordance with the
5 terms and conditions of the group contract that apply generally to
6 all spouses under the policy, including coordination of benefits.

7 (e) For purposes of this section, the term “domestic partner”
8 shall have the same meaning as that term is used in Section 297
9 of the Family Code.

10 (d) (1) A policy of group health insurance may require that the
11 employee, insured, or policyholder verify the status of the domestic
12 partnership by providing to the insurer a copy of a valid Declaration
13 of Domestic Partnership filed with the Secretary of State pursuant
14 to Section 298 of the Family Code or an equivalent document
15 issued by a local agency of this state, another state, or a local
16 agency of another state under which the partnership was created.
17 The policy may also require that the employee, insured, or
18 policyholder notify the insurer upon the termination of the domestic
19 partnership.

20 (2) Notwithstanding paragraph (1), a policy may require the
21 information described in that paragraph only if it also requests
22 from the employee, insured, or policyholder whose spouse is
23 provided coverage, verification of marital status and notification
24 of dissolution of the marriage.

25 (e) Nothing in this section shall be construed to expand the
26 requirements of Section 4980B of Title 26 of the United States
27 Code, Section 1161, and following, of Title 29 of the United States
28 Code, or Section 300bb-1, and following, of Title 42 of the United
29 States Code, as added by the Consolidated Omnibus Budget
30 Reconciliation Act of 1985 (Public Law 99-272), and as those
31 provisions may be later amended.

32 (f) A group health insurance policy subject to this section that
33 is issued, amended, delivered, or renewed in this state on or after
34 January 2, 2005, and any group health insurance policy that is
35 issued to or intended to cover any person residing in this state,
36 shall be deemed to provide coverage for registered domestic
37 partners that is equal to the coverage provided to a spouse of an
38 employee, insured, or policyholder.

1 ~~SEC. 6.~~

2 *SEC. 3.* No reimbursement is required by this act pursuant to
3 Section 6 of Article XIII B of the California Constitution because
4 the only costs that may be incurred by a local agency or school
5 district will be incurred because this act creates a new crime or
6 infraction, eliminates a crime or infraction, or changes the penalty
7 for a crime or infraction, within the meaning of Section 17556 of
8 the Government Code, or changes the definition of a crime within
9 the meaning of Section 6 of Article XIII B of the California
10 Constitution.

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